In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.3751 of 2006.

Date of decision:17.10.2006.

Parkash Kaur and others.

...Petitioners.

Versus

Kartar Kaur.

...Respondent.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Ms.Rupinder K. Thind Advocate for the petitioners.

Mr.S.K.Jain Advocate for the respondent.

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Judgment.

S. N. Aggarwal, J.

Parkash Kaur and others, petitioners filed a civil suit for a declaration to the effect that they were owners in possession in equal share of the land measuring 88 Kanals on the basis of Will dated 2.9.2000 executed by Jiwan Singh son of Gurditta Singh. Jiwan Singh died on 28.3.2001.

The suit was contested by Kartar Kaur,respondent.

Issues were framed.

The parties led the evidence.

Kundan Singh and Sukhdev Singh were the attesting witnesses of the Will dated 2.9.2000. The statement of Kundan Singh, witness of the plaintiff-petitioner was recorded on 26.2.2004. However, he did not support the Will. The petitioners filed an application to re-examine said Kundan Singh. This application was dismissed by the learned trial Court vide order dated 22.5.2004.

Later on, an affidavit of Kundan Singh dated 23.4.2001 filed by him before the Sub Registrar in support of this Will dated 2.9.2000 was produced in the Court by the official of that office on which the petitioners again filed an application for permission to re-examine Kundan Singh with reference to his affidavit dated 23.4.2001. The said application was dismissed by the learned trial Court vide impugned order dated 27.5.2006.

Hence, the present petition.

The submission of learned counsel for the petitioners was that this affidavit dated 23.4.2001 was filed by Kundan Singh in support of the Will dated 2.9.2000 executed by Jiwan Singh in favour of the petitioners and, therefore, they wanted to re-examine Kundan Singh with regard to his affidavit dated 23.4.2001 regarding the Will dated 2.9.2000.

The learned counsel for the respondent, on the other hand, apprehended that the petitioners would re-examine Kundan Singh with regard to other matters also.

These submissions have been considered. Since Kundan

Singh had filed affidavit dated 23.4.2001 regarding the Will in question before the Sub Registrar regarding the Will dated 2.9.2000 executed by Jiwan Singh in favour of the petitioners, therefore, it is in the interest of justice that the petitioners be permitted to re-examine Kundan Singh with regard to his affidavit dated 23.4.2001. However, the petitioners would not be entitled to examine or cross-examine him with regard to any other matter on which his statement has already been recorded.

The learned counsel for the respondent, however, submitted that the petitioners should be burdened with heavy costs. The petitioners are burdened with costs of Rs.1,000/- which shall be payable to Kartar Kaur,respondent-defendant in the learned trial Court.

Accordingly, the impugned order dated 27.5.2006 is set aside and this petition is allowed in the terms stated above.

October 17,2007. (S. N. Aggarwal)
Jaggi Judge